IN THE HON'BLE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Civil Writ Petition No.153 of 2004.

Date of decision: 16.03.2010.

Kashmir Singh …**Petitioner**

Versus

Union of India & Others …**Respondents**

Coram:

The Hon'ble Mr. Justice Dev Darshan Sud, J.

Whether approved for reporting?[1] ***No.***

For the petitioner: **Mr.Ajay Sharma, Advocate.**

For the respondents: **Mr.Sandeep Sharma, Assistant Solicitor General of India.**

Dev Darshan Sud, J.

The petitioner herein claims relief of military pension. According to the averments made in the writ petition, he was serving with 9 FF Regiment and discharged from service on 17.8.1946. The dispute is regarding grant of pension for the services which he has rendered. After coming into force of The Armed Forces Tribunal Act, 2007, this case is within the jurisdiction and cognizance of the Armed Forces Tribunal. Section 34 of the Act provides:-

> *"**34. Transfer of pending cases.-**(1) Every suit, or other proceeding pending before any court*

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[1] ***Whether Reporters of Local Papers are allowed to see the judgment?***

including a High Court or other authority immediately before the date of establishment of the Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based, is such that it would have been within the jurisdiction of the Tribunal, if it had arisen after such establishment within the jurisdiction of such Tribunal, stand transferred on that date to such Tribunal.

(2) *Where any suit, or other proceeding stands transferred from any court including a High Court or other authority to the Tribunal under sub-section (1),-*

(a) the court or other authority shall, as soon as may be, after such transfer, forward the records of such suit, or other proceedings to the Tribunal;

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit, or other proceeding, so far as may be, in the same manner as in the case of an application made under sub-section (2) of section 14 from the stage which was reached before such transfer or from any earlier stage or de novo

as the Tribunal may deem fit."

This writ petition is, therefore, directed to be placed before the Armed Forces Tribunal for further proceedings in accordance with law. The Registry is directed to send the record of this petition to the Tribunal at Chandigarh. This writ petition is disposed of. There shall be no order as to costs.

March 16, 2010 **(Dev Darshan Sud)**
(aks) **Judge.**